STEWART v. MASSACHUSETTS

APPEAL FROM THE SUPREME JUDICIAL COURT OF MASSACHUSETTS

No. 71-5446. Decided June 29, 1972

Imposition and carrying out of death penalty in this case *held* to constitute cruel and unusual punishment in violation of Eighth and Fourteenth Amendments. *Furman* v. *Georgia, ante,* p. 238. — Mass. —, 270 N. E. 2d 811, vacated and remanded.

PER CURIAM.

The appellant in this case was sentenced to death. The imposition and carrying out of that death penalty constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. *Furman* v. *Georgia, ante,* p. 238. The motion for leave to proceed *in forma pauperis* is granted. The judgment is therefore vacated insofar as it leaves undisturbed the death penalty imposed, and the case is remanded for further proceedings.